

obvious over WO 99/03323. This rejection is identical to that which was appealed.

The examiner rejected claim 6, under 35 USC 103 as being obvious over WO 99/03323 in view of AT 301234. This rejection is identical to that which was appealed.

The examiner finally rejected claims 11-20, under 35 USC 103, as being obvious over WO 99/03323 in view of Herron et al (US Patent 6,032,444). This rejection is identical to that which was appealed.

The examiner finally rejected claim 21, under 35 USC 103, as being obvious over WO 99/03323 in view of Miller (US Patent 4,148,175). This rejection is identical to that which was appealed.

All of the above discussed rejections rely on the examiner's interpretation of the claim term "feeding radius" and how it is or is not taught by WO 99/03323. WO 99/03323 discloses a feeding and picking device having a relatively conventional feeding assembly comprising two gathering chains that follow an oblong path. The applicant asserts that the oblong path does not define a feeding radius as called for in the pending claims. As such, there is no way the chopping radius of the chopping device overlaps the non-existent feeding radius.

It is the examiner's position that each of the rotating gathering chains (18, 19) have a feeding radius. The Examiner relies on Websters Collegiate Dictionary definition of radius as "c: a bounded or circumscribed area." It is the applicant's position that that definition is merely defining an arc defined by a line that is pivoted about an axis. Otherwise, under the examiner's interpretation a radius can be construed to include a rectangle, a triangle or a square as these are all bounded.

In paragraph 10 of the Office Action the examiner states that the only definition of "feeding radius" in the specification must be "radius of action". "Radius of action" is used to refer to the movements of the feeding fingers 44 and 46. However, the examiner is completely ignoring the drawings and the passage in the summary stating:

"The basic idea of the present invention is to have the chopping radius of the chopping device and the feeding radius of the feeding device overlap. Thus, the chopping radius intersects the feeding radius. This feature affords a number of advantages which will be explained in greater detail below: First, it ensures a compact design."

Clearly, the examiner's definition of feeding radius does not result in a compact

design.

The examiner's new grounds rejection is rejecting claims 1 and 5, under 35 USC 102, as being anticipated by Decoene. Decoene discloses a forage harvester comprising a base unit 2 and a crop gathering unit 1. The crop gathering unit 1 comprises a cutter means 14 for severing plant stalks located in stalkways 12 and 13. The cutter means 14 comprises a pair of cooperating cutter discs 50 and 51 per stalkway. The severed stalks are taken up by a conveyor means 15 to feed rolls 3. The conveyor means comprises a series of drums 31-36 having stalk engaging lugs 48 that engage the stalks and propel them to the feed rolls 3. The feed rolls 3 direct the crop to a cutterhead for cutting the stalks into small pieces.

Independent claim 1, from which claim 5 depends, calls for a "...a picking device which separates useable parts from the plant stalks,...". There is no picking device in Decoene that separates the usable parts from the stalks as the stalks and the usable parts are conveyed together to the cutterhead. The examiner has identified the feeding rolls 3 as being the corresponding picking device in Decoene. These feed rolls are feed rolls and do not separate the usable parts from the stalks. Therefore, Decoene does not anticipate claims 1 and 5.

In conclusion, it is believed that this application is in condition for allowance, and such allowance is respectfully requested.

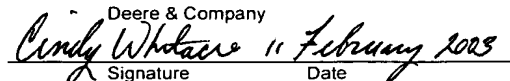
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Respectfully,

  
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